IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 23886 of 2004

Between:

S. Narsimulu S/o Somaiah, Conductor E 270484,
A.P.S.R.T.C. Midhani Depot, R/o Hyderabad

..... PETITIONER

AND

The Depot Manager, APSRTC., Midhani Depot, Hyderabad

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the Respondent herein issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned order of removal vide proceedings No. 02/95 (19)/2004-MDN dated 01-12-2004 issued by the Respondent removing the petitioner from service with immediate effect and further treating suspension period as not on duty for the purpose of Leave, increments, and Gratuity as arbitrary, illegal, un-just, contrary to law without application of mind, contrary to the circular issued from time to time and in violation of Regulations of the Corporation Violative of Principles of Natural Justice victimization, un-fair Labour Practice and also in violation of Articles 14 and 21 of the Constitution of India consequently set -aside the same and to pass such other order or orders.

Counsel for the Petitioner: MR.P.SRIDHAR RAO

Counsel for the Respondent No.: MR.V.T.M.PRASAD

The Court made the following :

ORDER:

Challenging the removal order dated 01.12.2004 passed by the respondent, this writ petition is filed.

Learned counsel for the petitioner contended that the Depot Manager, who passed the impugned order did not conduct the enquiry in pursuance of the terms of the order passed by this Court, and therefore, if an appeal is filed by the petitioner before the Divisional Manager, Hyderabad, he cannot get justice and hence, the appeal to be filed by him may be disposed of by any other Divisional Manager.

Learned counsel also advanced arguments stating that the passenger to whom the ticket was issued, was not examined during the course of the enquiry. Therefore, he prays to grant stay of the proceedings.

Learned standing counsel for respondent contended that there is a regulation, under which an appeal can be transferred to any other Divisional Manager in accordance with law.

Admittedly, against the order passed by the respondent-Depot Manager, an appeal lies to the Divisional Manager. No doubt, alternative remedy is not a bar for entertaining the application under Article 226 of the Constitution of India, but at the same time, it is not a case of violation of any principles of natural justice or not allowing the writ petitioner to adduce evidence in the departmental proceedings. Therefore, the contentions that were raised in the writ petition as well as advanced by the learned counsel for the petitioner can be agitated by him before the Appellate Authority.

Accordingly, this writ petition is disposed of directing the writ petitioner to file an appeal before the Divisional Manager, Hyderabad and on filing such an appeal, the same shall be transferred to any other Divisional Manager and shall be disposed of in accordance with the rules and regulations of the Corporation within a period of two months from the date of filing of the appeal. No order as to costs.

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K.C. BHANU,J

Date : 30-12-2004

Klp

To

1. The Depot Manager, APSRTC., Midhani Depot, Hyderabad

2. 2CD copies